

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

Gary Kremen, et al.,

NO. C 98-20718 JW

Plaintiffs,

**ORDER DENYING PLAINTIFFS'  
MOTION FOR LEAVE TO FILE A  
MOTION FOR RECONSIDERATION**

v.

Stephen Michael Cohen, et al.,

Defendants.

Presently before the Court is Plaintiffs' Motion for Leave of Court to File Motion for Reconsideration of June 17, 2010 Order. (hereafter, "Motion," Docket Item No. 1392.) Plaintiff seeks leave to move for reconsideration of the Court's Order Granting Steve Teich's ("Teich") Request to Withdraw as Counsel of Record<sup>1</sup> on the ground that the Court manifestly failed to consider (1) Defendant Stephen Michael Cohen's ("Cohen") long history of evading service and (2) the condition, imposed on Cohen for his release from incarceration for the many instances of contempt that resulted in a warrant for his arrest, that Teich serve as Cohen's domestic agent for service of process. (Motion at 8-10.)

Pursuant to Civil Local Rule 7-9(b), a party moving for leave to file a motion for reconsideration must specifically show the following:

- (1) At the time of the filing the motion for leave, a material difference in fact or law exists from that which was presented to the Court before entry of the interlocutory order for which reconsideration is sought. The party also must show that in the

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<sup>1</sup> (hereafter, "June 17 Order," Docket Item No. 1391.)

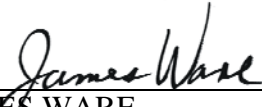
- 1 exercise of reasonable diligence the party applying for reconsideration did not know  
such fact or law at the time of the interlocutory order; or  
2 (2) The emergence of new material facts or a change of law occurring after the time of  
such order; or  
3 (3) A manifest failure by the Court to consider material facts or dispositive legal  
arguments which were presented to the Court before such interlocutory order.  
4

5 Civ. L.R. 7-9(b). A motion for leave to file a motion for reconsideration may not repeat any oral or  
6 written argument previously made with respect to the interlocutory order that the party now seeks to  
7 have reconsidered. Civ. L.R. 7-9(c). "A party who violates this restriction shall be subject to  
8 appropriate sanctions." Id. Here, the Court granted Teich's request to withdraw as counsel of  
9 record for Cohen on the ground that Teich entered the case for the limited purpose of moving the  
10 Court to release Cohen from custody as the result of the Court's civil contempt Order. (June 17  
11 Order at 3.) As indicated in Teich's Declaration, which is attached to the June 17 Order, the Court  
12 granted Cohen's motion to substitute as counsel in pro se on February 17, 2007. (See Civil Minutes,  
13 February 26, 2007, Docket Item No. 1257.) Although Teich agreed to receive notice on behalf of  
14 Cohen at the December 4, 2006 hearing, the Court imposed the condition that Cohen maintain an  
15 agent for service of process on Cohen, not on Teich. It would place an undue burden on Teich to  
16 indefinitely hold him responsible for his former client's failure to meet that condition or to find a  
17 substitute service agent in the United States. Although Teich did not specifically ask the Court to  
18 relieve him of his role as Cohen's agent for service of process, he did request that he be relieved of  
19 any responsibility to act on Cohen's behalf, which implicitly encompasses acting as service agent.

20 The Court carefully considered all of the circumstances of this case, including Cohen's  
21 history of evading service and the conditions imposed on Cohen for his release from incarceration in  
22 2006, before granting Teich's request. Ultimately, the Court is unwilling to mandate that Teich act  
23 as Cohen's attorney or agent for service of process against his will, especially when more than three  
24 years have passed since Teich initially withdrew as counsel of record with the Court's permission.  
25 Thus, the Court finds that it did not manifestly fail to consider any material facts or dispositive legal  
26 arguments in granting Teich's request, nor is there any indication that new facts have emerged or  
27 there has been a change in applicable law since the Court issued its June 17 Order.  
28

1 Accordingly, the Court DENIES Plaintiff's Motion for Leave to File a Motion for  
2 Reconsideration. The Court will not entertain further motions on this issue.

3  
4 Dated: August 9, 2010

  
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JAMES WARE  
United States District Judge

**THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

Daniel E. Alberti dalberti@mwe.com  
George Geoffrey Weickhardt gweickhardt@ropers.com  
Glen H. Isaacs invalidaddress@invalidaddress.com  
Howard Scott Leviant scott@spiromoss.com  
James Matthew Wagstaffe wagstaffe@kerrwagstaffe.com  
Joel R. Dichter dichter@dichterlaw.com  
Karl Stephen Kronenberger karl@KBInternetlaw.com  
Nadya Yael Spivack nspivack@dillongerardi.com  
Patricia De Fonte Patricia.DeFonte@idellseitel.com  
Richard J. Idell richard.idell@idellseitel.com  
Stephen Michael Cohen mrstephenmcohen@yahoo.com  
Terri R Hanley law@terrihanley.com  
Timothy Patrick Dillon tdillon@dillongerardi.com

**Dated: August 9, 2010**

**Richard W. Wieking, Clerk**

**By: /s/ JW Chambers**  
**Elizabeth Garcia**  
**Courtroom Deputy**